committed, attended with danger to life, limb or health, or reasonable apprehension of such violence. Extreme cruelty may be such conduct which produces mental suffering and destroys the peace of mind. *Sylvis v. Sylvis,* 11 Colo. 327; *Caruthers v. Caruthers,* 13 Ia. 266; *Cole v. Cole,* 23 Ia. 433.

EMINENT DOMAIN—PROCEEDINGS—SECOND TRIAL.—NORTHERN PAC. RY. CO. ET AL. V. CITY OF GEORGETOWN, 97 PAC. 659 (WASH.).—Where a city undertook to extend an avenue across railroad tracks, and a judgment of condemnation with an award of damages was entered, *held,* that the city could not, after abandoning the proceedings because of dissatisfaction with the award, maintain proceedings for the extension across the tracks of another avenue, located six inches south of the location of the first avenue, in order to avoid the award of damages on the first trial and to obtain a new trial on substantially the same proposition. Fullerton, J., *dissenting.*

The same rule applies in eminent domain proceedings as in a court of law, and while one award remains in full force it is conclusive and the petitioner is barred from instituting other proceedings involving the same proposition. *Sandford v. Wright,* 164 Mass. 85. And where he attempts to do so the remedy of the respondent does not lie in equity by injunction but his remedy is at law by a motion to dismiss. *Chicago, R. I. & R. Ry. Co. v. City of Chicago,* 148 Ill. 479. A discontinuance may be effected by a dismissal pending an appeal, and subsequent proceedings may be instituted to condemn another right of way over the same property, provided the dismissal was made in good faith. *Corbin v. Cedar Rapids, I. F. & N. W. Ry. Co.,* 66 Ia. 73. Statutes are to be construed as against the release of private property from subservience to public use however great the emergency. *Trustees of C. S. Ry. Co. v. Haas,* 42 Ohio St. 239. And where it is provided by statute that the failure of petitioner to pay award within a specified time shall constitute a discontinuance, new proceedings may thereafter be immediately instituted. *Ala. Midland Ry. Co. v. Newton,* 94 Ala. 443; *State v. City of Minneapolis,* 40 Minn. 483.

EQUITY—PERSONAL ASSETS—DEBT BY HUSBAND TO WIFE.—SHARPE V. MILLER, 47 So. 701 (ALA.).—*Held,* that a debt by husband to wife, secured by a mortage, is a personal asset, the title to which on the wife's death, vests in her administrator.

It is apparently settled law, that whereas a debt passes to the executor or administrator upon the death of the decedent, a mortgage given to secure the debt is also a personal asset. *Smith v. Dyer,* 16 Mass. 18; *Bird v. Keller,* 77 Me. 270. The principal case, however, is one that could not have arisen at common law, and is interesting as showing the extent to which the rule as to the invalidity of contracts and conveyances between husband and wife has been abrogated. *Kneil v. Egleston,* 140 Mass. 202. In England, money loaned by the wife, from her separate estate, to her husband, upon his promise to repay it, has long been recoverable in chancery. *Woodward v. Woodward,* 3 DeG., J. & S. 672. In this country, too, courts of equity in most jurisdictions have enforced such debts in the absence of fraud or prejudice to third parties. *Medsker v. Bonebrake,* 108 U. S. 66; *Greiner v. Greiner,* 35 N. J. Eq. 134. *Contra*: *Woodward v.*